

CITY OF MUSKEGON  
ZONING BOARD OF APPEALS  
REGULAR MEETING  
MINUTES

October 14, 2003

Chairman S. Schiller called the meeting to order at 4:07 p.m., and roll was taken.

MEMBERS PRESENT: C. Kufra, S. Schiller, R. Hilt, E. Fordham, R. Schweifler, J. Clingman-Scott

MEMBERS ABSENT: D. Newsome

STAFF PRESENT: D. Steenhagen, H. Griffith

OTHERS PRESENT: T. Blake, 3222 Park Place.

APPROVAL OF MINUTES

A motion to approve the regular meeting minutes of September 9, 2003, was made by R. Hilt, supported by J. Clingman-Scott and unanimously approved.

R. Schweifler arrived at 4:08 p.m.

PUBLIC HEARINGS

Hearing, Case 2003-25: Variance request to reduce the front setback on a corner lot to 6 feet, at 1677 Edgewater St., by Tom & Susan Blake. D. Steenhagen presented the staff report. The subject property is located on the corner of Edgewater St. and Park Place. The property is odd-shaped, with the frontage on an angle to Edgewater. Although the property is only 44 feet wide, it does have over 50 feet of frontage and contains over 6,000 square feet and is therefore considered to be buildable. The subject property contains an existing home. The applicant would like to tear down the existing home and build a new one on the property. Although the existing home is nonconforming in terms of setbacks, by tearing it down, the nonconforming status will be lost and the new home would need to meet existing setback requirements. In April of 2000, the City Commission vacated the west half of Park Place, which is now a private drive. The east half of Park Place, adjacent to the subject property, is still a public street. Therefore, the subject property is a corner lot and two 15-foot front setbacks are required. The Park Place right-of-way is very narrow and the street is not used very much since there are only two homes which take access from it (one from the public portion and one from the private drive). The physical street has encroached upon the subject property since the actual corner where the two streets meet is a sharp angle a survey and photos were provided to the commission members. The Zoning Ordinance requires a side setback of 6 feet for a one-story home on a corner lot. Added to the 15-foot setback off of the Park Place right-of-way, that would leave only 21 feet of width (including eaves) for a proposed home. The Zoning Ordinance requires all homes to be a

minimum of 24 feet wide. Therefore, no house could be built on this property without receiving a variance of some sort. The owner has chosen to apply for a variance from the front setback requirement on Park Place. The applicant is proposing setbacks of 10 feet and 6 feet on either side of the proposed home. If this lot were not a corner lot, then these setbacks would meet ordinance requirements. However, a corner lot requires two 15-foot front setbacks. The applicant is asking for a variance to reduce the setback on Park Place from 15 feet to 6 feet. Although the side setback requirement between the subject property and the home to the south is only a minimum of 6 feet, the applicant is proposing a 10-foot setback on this side, due to the fact that the adjoining home is built almost right up to the property line already. The applicant has stated that he would rather leave a greater separation on this side of the house since the other side is adjacent to a street instead of a home. The houses in this neighborhood are built quite close together in most cases. Staff has received one phone call, from Larry Larson, 3245 Arlington Ave. Mr. Larson didn't have any concerns with the setbacks on the sides of the home, rather his concern was whether the house would be too close to Edgewater St, which he said is already congested. D. Steenhagen added that she had 2 additional phone calls. The first was from Sue Peters of 1621 Edgewater who had no objections. The second was from Isabelle Tripp of 1661 Edgewater. She had phoned twice. The first time she had questions and the second time she stated that she wouldn't support the applicant since he wouldn't help when the neighbors needed it.

E. Fordham asked if there were any height restrictions for this area. D. Steenhagen stated that it would be the same as in any single-family zoning district. If the home were a 2-story it would not be allowed to be taller than 35 ft. The applicant is looking at building a single story home. R. Schweifler asked the applicant if he felt that this variance would be the minimum action required to eliminate his difficulty. T. Blake stated that it was. R. Hilt asked if the applicant owned the 2-story home behind this property. T. Blake stated that he did. J. Clingman-Scott asked if the proposed home would orient toward Edgewater or Park Place. T. Blake stated that it would be towards Edgewater.

A motion to close the public hearing was made by R. Schweifler, supported by R. Hilt and unanimously approved.

R. Schweifler agreed with the applicant in regards to the findings of fact. He felt that this would be an improvement to the neighborhood and would not negatively affect other properties. He would be in favor of granting the request. J. Clingman-Scott asked if the commission should add a condition that the road would need to be left as it is. C. Kufta stated that this would more than likely fall under adverse possession since the road had shifted and has always been used as such. R. Schweifler asked the applicant if the 6-ft. setback would be from the platted property line or the road. T. Blake stated that they would try to do it from the platted property lines, but if they find that to be difficult the home would be moved further back. They would need to have access from the road to turn into the driveway.

The following findings of facts were offered: There are exceptional or extraordinary circumstances or conditions applying to the property in question or to the intended use of the property that do not apply generally to other properties or class of uses in the same zoning district because the adjoining home is on the lot line. The standard 15-ft. setback would block

the neighbor's view and would not be aesthetically pleasing to the area and the side street dead-ends into the private drive. The dimensional variance is necessary for the preservation and enjoyment of a substantial property right possessed by other properties in the same zoning district and in the vicinity because there is a need for a much smaller building set back so that the property owners would be able to utilize more of their of property. The authorizing of such dimensional variance will not be of substantial detriment to adjacent property and will not materially impair the purposes of this chapter or the public interest because the variance will not hurt any of the neighbors since it should, in time, help increase the values of their homes. The alleged difficulty is caused by the Ordinance and has not been created by any person presently having an interest in the property, or by any previous owner because the difficulty is caused by the existing lot width vs. the current building setbacks and the required minimum square footage of new homes. The alleged difficulty is not founded solely upon the opportunity to make the property more profitable or to reduce expense to the owner because it would improve the neighborhood by replacing a deteriorating home with a new home that would fit in with the surrounding homes. The requested variance is the minimum action required to eliminate the difficulty because there is no way to fit a home on this property meeting the current zoning requirements.

A motion that the findings of fact determined by the Zoning Board of Appeals be adopted and that the variance to reduce the front setback on a corner lot to 6 feet at 1677 Edgewater St., be approved, based on the findings of fact, with the following conditions: 1) The variance is recorded with the deed to keep record of it in the future. 2) That the addition to the property must be complete within one year or the variance is void, was made by R. Schweifler, supported by J. Clingman-Scott and unanimously approved.

#### OTHER

Van's Car Wash – S. Schiller asked if there was any information as to why the portable letter sign hasn't been removed yet. This was a condition for their approval of their variance. D. Steenhagen stated that she was informed not to enforce this. S. Schiller asked staff to check with the City Attorney to see if the City has the right to override the decision of the ZBA.

Our Redeemer Lutheran Church – R. Schweifler has asked staff when they would need to review the case of the RV's again. It had been tabled at a previous meeting. The addition to the church is completed and the RV's are gone. He felt they should make a decision on this case. S. Schiller asked that this case be put on the agenda for the next meeting.

There being no further business, the meeting was adjourned at 4:31 p.m.

hmg  
10/14/03